

## **RESPONSE**

### **I. Restriction Requirement**

The Examiner has determined that the original claims are directed to five separate and distinct inventions under 35 U.S.C. § 121, as follows:

- Group I: Claims 1 (in part) and 2, said to be drawn to isolated nucleic acid encoding a human kinase having SEQ ID NO:2, classified in class 536, subclass 23.2;
- Group II: Claims 1 (in part) and 4, said to be drawn to isolated nucleic acid encoding SEQ ID NO:6, classified in class 536, subclass 23.2;
- Group III: Claims 5 and 6 (in part), said to be drawn to an isolated human kinase having SEQ ID NO:2, classified in class 435, subclass 194;
- Group IV: Claims 5 and 6 (in part), said to be drawn to an isolated human kinase having SEQ ID NO:4, classified in class 435, subclass 194; and
- Group VI: Claims 5 and 6 (in part), said to be drawn to an isolated human kinase having SEQ ID NO:6, classified in class 435, subclass 194.

### **II. Response to Restriction Requirement**

In response to the Restriction Requirement, Applicants hereby elect without traverse to prosecute the claims of the Group IV invention (claims 5 and 6 (in part)), drawn to an isolated human kinase having SEQ ID NO:4, classified in class 435, subclass 194. Accordingly, claims 1, 2 and 4 have been cancelled herein without prejudice and without disclaimer as drawn to non-elected inventions, and claims 5 and 6 have been amended herein without prejudice and without disclaimer to remove reference to non-elected inventions.

Applicants reserve the right to refile claims to the non-elected inventions in one or more future applications retaining the priority date of the present case and the earlier cited priority applications.

### **III. Status of the Claims**

Claims 1, 2 and 4 have been cancelled without prejudice and without disclaimer as drawn to non-elected inventions. No claims of the Group IV invention have been cancelled. Claims 5 and 6 have been amended without prejudice and without disclaimer to remove reference to non-elected

inventions. No new claims have been added.

Claims 5 and 6 are therefore presently pending in the case.

**IV. Support for the Amended Claims**

Claims 5 and 6 have been amended to remove reference to non-elected inventions. Support for this claim can be found throughout the specification as originally filed, with particular support being found at least in claims 5 and 6.

It will be understood that no new matter is included within the amended claims.

**V. Conclusion**

The present document is a complete response to the Restriction Requirement. Applicants believe that the claims of the instant application meet all of the conditions for patentability and are in condition for allowance. Accordingly, an early indication of the same is respectfully requested. Should Examiner Monshipouri have any questions or comments, or believe that certain amendments of the claims might serve to improve their clarity, a telephone call to the undersigned Applicants' representative is earnestly solicited.

Respectfully submitted,

January 5, 2004  
Date



David W. Hibler  
Agent for Applicants

Reg. No. 41,071

LEXICON GENETICS INCORPORATED  
(281) 863-3399

**Customer # 24231**